

Item # _____

Prepared by: Gloria Kelly
Real Estate Services

Approved by: _____
Assistant County Attorney

RESOLUTION APPROVING THE LEASE OF 710 ACRES OF CHICKASAW BASIN AUTHORITY PROPERTY, LOCATED WITHIN THE CITY OF MILLINGTON, TO SNEED FARMS, INC. FOR AGRICULTURAL AND PASTURAGE OPERATIONS FOR ANNUAL RENTAL IN THE AMOUNT OF \$75,000.00 AND AUTHORIZING THE SHELBY COUNTY MAYOR TO EXECUTE THE AGRICULTURAL LEASE AGREEMENT. SPONSORED BY COMMISSIONER WYATT BUNKER.

WHEREAS, The Chickasaw Basin Authority owns certain real property known as Dam #5 (approximately 910 acres in size) located on the east side of Wilkinsville Road, south of Walker Road, within the City of Millington, which property being further identified as Shelby County Tax Parcel Nos. M0105 00012C, M0105 00182, Mo105 00146 and M0105 00150; and

WHEREAS, The Chickasaw Basin Authority has historically leased 710 acres of the same for agricultural and pasturage operations to generate revenues to offset its ongoing operational expenses; and

WHEREAS, In accordance with County policy, the availability of said 710 acres of land for lease was publicly advertised, soliciting sealed bids to lease the same but only one sealed lease bid was received and opened, calling for an initial term of five (5) years, with the option to extend the initial term for one (1) renewal term of five (5) years, under the terms and conditions stated in the attached Agricultural Lease Agreement, which is hereby incorporated by reference establishing a high annual rental bid for the same in the amount of \$75,000.00 from SNEED FARMS, INC.; and

WHEREAS, It is deemed to be in the best interest of the Chickasaw Basin Authority to lease the hereinabove said 710 acres of land to SNEED FARMS, INC. for its agricultural and pasturage operations, under the terms and conditions stated in the aforescribed Agricultural Lease Agreement.

NOW, THEREFORE, BE IT RESOLVED, BY THE BOARD OF COUNTY COMMISSIONERS OF SHELBY COUNTY, TENNESSEE, That the aforescribed lease of 710 acres of land owned by the Chickasaw Basin Authority to SNEED FARMS, INC. for its agricultural and pasturage operations, under the terms and conditions stated in the aforescribed Agricultural Lease Agreement be and the same is hereby approved.

BE IT FURTHER RESOLVED, That the Mayor be and he is authorized to execute the attached Agricultural Lease Agreement and any other documents necessary to effect the lease of said real property to SNEED FARMS, INC. for the aforementioned purpose.

BE IT FURTHER RESOLVED, That this Resolution shall take effect from and after the date it shall have been enacted according to due process of law, the public welfare requiring it.

A C Wharton, Jr., County Mayor

Date: _____

ATTEST:

Clerk of County Commission

ADOPTED _____

AGRICULTURAL LEASE AGREEMENT

THIS AGREEMENT, made and entered into on this ____ day of _____, _____, by and between County of Shelby, on behalf of Chickasaw Basin Authority (hereinafter referred as "LESSOR") and Sneed Farms, Inc., whose address is 3757 Wilkinsville Road, Millington, TN 38053, (hereinafter referred to as "LESSEE").

WITNESSTH

1. That Lessor, in consideration of rents and covenants herein agreed to be paid and performed by the Lessee, hereby leases unto said Lessee for a five year term beginning upon January 1, 2009 and ending December 31, 2013 with the Lessor's option to extend for five (5) years, the following property situated in the County of Shelby, Tennessee:

Approximately 710 acres of farmland as shown in Exhibit A - also known by The Farm Service Agency as farm #3062 and portions of farm #1463. Fields #1,2,and 3.

Approximately, 554 acres of cropland in farm #3062 and portions of the 148.4 acres of cropland in farm #1463, field #1,2,and 3.

2. The Lessee agrees to pay to the Lessor without demand on or before December 31 of each year without demand as rent for the aforementioned property a sum of **SEVENTY FIVE THOUSAND AND NO/100 (\$75,000.00) Dollars** for the use of approximately 710 acres.

3. Unless advised to the contrary in writing, Lessee shall make all rental payments to Shelby County Government c/o the Engineering Department, 160 North Main Street, Suite 350, Memphis, Tennessee, 38103. The Lessee hereby agrees to be responsible for any and all improvements hereafter erected by Lessee on subject premises during the term of this Lease Agreement.

4. Lessee shall use the leased premises solely for customary agricultural and pasturage operations, and Lessee shall not operate or permit any hunting or fishing to be operated upon the leased premises.

5. The Lessee will not make or permit to be made any alterations, additions, or additional permanent improvements to said premises, nor assign, mortgage, or pledge this Lease, nor

sublet the whole or any part of the leased premises without the Lessor's written consent. Consent by the Lessor shall apply solely to the particular transaction consented to and shall not constitute a waiver by the Lessor of the provisions of this Lease. Any transfer or assignment of this Lease or any interest hereunder or subleasing shall be subject to the terms of this Lease and not relieve the Lessee of its liability for payment of the rent or performance of any covenant or other obligation imposed upon Lessee by this Lease.

6. The Lessee shall maintain all of the improvements now on the leased premises and return them to the Lessor at the termination of this Lease in as good condition as when received, reasonable wear and tear and damage by fire or the elements or Acts of God expected, unless caused by Lessee's negligence. The type of farming conducted on the leased premises shall be followed by Lessee which will be profitable for the Lessee and at the same time will not be destructive to the fertility of the leased premises.

7. All improvements which are desired by Lessee and made upon the leased premises, shall be installed and maintained at Lessee's expense. No alteration, addition or improvement to the leased premises shall be made by the Lessee without the written consent of the Lessor. Any alterations, addition or improvements made by the Lessee after such consent shall have been given, and fixtures installed as part hereof, shall at once become the absolute property of the Lessor without payment of any kind thereof.

8. Lessor shall have the right to go upon leased premises at any time and perform such work thereon as it may deem advisable, which does not prevent the Lessee from carrying out the terms and conditions of this Lease.

9. Lessee shall commit no waste or contamination of the leased premises and shall not dispose of petroleum products or agricultural chemicals in an unauthorized or unlawful manner and it shall be Lessee's duty and right to prevent the use of any portion of the property by unauthorized persons.

10. Lessee shall, at all times prior to the termination of the Lease and prior to the delivery to the Lessor of possession of the leased premises and all improvements thereon, indemnify Lessor against all liability, loss, cost, damage, expense or penalty sustained by Lessor including attorneys fees and other expenses of litigation, arising prior to termination

of the lease term and delivery to Lessor of possession of the leased premises due to any of the following:

(a) For any violation of any law of the United States, the State of Tennessee, or any of the local laws, County or City, if occasioned by the neglect or fault of Lessee or those holding or occupying under Lessee.

(b) Arising out of, or directly or indirectly due to, any accident or other occurrence causing injury to any person or persons (including death) or property resulting from the use, occupancy, maintenance or repair of the leased premises or any part thereof, by Lessee or by any person or persons holding or occupying under or employed by Lessee.

(c) On account of or through the use, occupancy, maintenance, or repair of the leased premises or improvements or any part thereof by Lessee or by any other person or persons holding or occupying under or employed by Lessee for any purpose inconsistent with the provisions of this Lease.

(d) Arising out of, or directly or indirectly due to any failure of Lessee in any respect promptly and faithfully to satisfy its obligations under this Lease.

11. Lessee also shall, at all times prior to termination of this lease term and delivery to Lessor of the lease premises, indemnify Lessor against all liens and charges of any and every nature that may at any time be established against the leased premises or any improvements thereon or any part thereof as consequence, direct or indirect, of any act or omission of Lessee or any person or persons holding or occupying under or employed by Lessee or as a consequence, direct or indirect, of the existence of Lessee's interest under this Lease.

12. (a) Lessee at its own risk and expense, during the period of this Lease or any extended term of this Lease, shall provide liability insurance in the minimum amounts of **One Million and 00/100 Dollars (\$1,000,000.00)** combined single limits covering property damage and bodily injury with the Lessor named as an additional insured; this policy will fully protect Lessor from any and all claims for damages to property or persons, including death, which may arise from Lessee's operations on the leased premises or adjacent thereto, whether such operations are by Lessee or by anyone directly or indirectly employed or licensed by Lessee or acting under Lessee's authority or orders. Further, this policy shall be written with insurance companies satisfactory to the Lessor.

(b) Within thirty (30) days subsequent to the commencement of this Lease, the Lessee shall deliver to Lessors certificates of insurance certifying that such insurance is in full force and effect and naming Lessors as additional insured.

(c) At least thirty (30) days prior to the expiration of any policy of insurance the Lessee is obligated to carry under this Lease, the Lessee shall furnish a binder or policy to the Lessor renewing each such policy satisfactory to the Lessor. Each policy and/or binder shall provide for at least fifteen (15) days notice to the Lessor of any change or cancellation thereof. Lessee shall promptly deliver to Lessors a certificate from the insurance carrier satisfactory to the Lessors evidencing the renewal of the policy and the payment of premium.

13. Lessor reserves the right of ingress and egress over and across the leased premises for property protection, maintenance, and showing sites to prospective users. This Lease is subject to any existing prescriptive easements or easements of record in the Register's Office of Shelby County, Tennessee, and the rights of ingress and egress are reserved for the holders of these easements or any other matters of record in the said Register's Office.

14. Should the Lessor need any portion of the leased premises in connection with the development, operation, management and control of any of the properties under the jurisdiction of the Lessor prior to termination of the Lease, any portion of the property so required shall be surrendered immediately by the Lessee and an adjustment in rent shall be made.

15. In case Lessee, during the term of this Lease, shall cause a default hereunder by committing one or more of the following:

- (a) file a voluntary petition in bankruptcy or if proceedings be instituted by anyone else to adjudge Lessee a bankruptcy; or
- (b) make an assignment for the benefit of creditors; or
- (c) be adjudicated a bankruptcy; or
- (d) be declared insolvent; or
- (e) abandon the premises; or
- (f) fail to perform any part or comply with any provision of this Agreement including the payment of rent heretofore agreed.

and such default shall continue for fifteen (15) days after the Lessor has given written notice of such default to Lessee, then and henceforth, in any of said events, the Lessor, at its option, has the right to cancel this Lease and the Lessor may reenter and resume possession of the leased premises, and may, at its option, relet the leased premises as agent of Lessee but in the name of Lessor and receive rent thereof, applying the same, first, to payment of expenses to which Lessor may be put in reentering and reletting, and then to payment of rent due hereunder and the remainder, if any, to be paid over to Lessee, and Lessee shall be liable for any deficiency, the execution of a new lease for the leased premises or any part thereof being permitted without terminating Lessee's liability or obligation hereunder. The Lessee waives service of any notice of intention to reenter, or of instituting legal proceedings to that end, or otherwise, and all other notices of default.

16. The right in the Lessor to cancel this lease as herein set forth is an addition to and not in exhaustion of such rights that the Lessor has or causes of action that may accrue to the Lessor because of the Lessee's failure to fulfill, perform or observe the obligations, agreements or covenants of this Lease, and the exercise or pursuit by Lessor of any of the rights or causes of action accruing hereunder shall not be in exhaustion of such other rights or causes of action that the Lessor might otherwise have.

17. It is hereby covenanted and agreed that no other waiver of a breach of any of the covenants of this Lease shall be construed to be a waiver of any succeeding breach of the same or any other covenant.

18. Lessee agrees to pay all reasonable costs of collection, including reasonable attorneys' fees, if all or any part of the rent reserved herein is collected after maturity with the aid of any attorney; also, Lessee agrees to pay reasonable attorney fees in the event it becomes necessary for Lessors to employ an attorney to enforce any of the covenants, obligations or conditions imposed in this Lease.

19. If the Lessee defaults in the observance or performance of any term or covenant on the Lessee's part to be observed or performed under any of the terms or provisions in any paragraph of this Lease, the Lessor may immediately or at any time thereafter and without notice, perform the same for the

account of the Lessee, and if the Lessor makes any expenditures or incur any obligations for the payment of money in connection therewith, including but not limited to, attorney fees in instituting, prosecuting or defending any action or proceeding, such sums paid or obligations incurred with interest and costs shall be deemed to be additional rent hereunder and shall be paid by the Lessee to the Lessor upon demand.

20. This writing constitutes the entire agreement by and between the parties and no renewal, extension or amendment of this Lease shall be binding unless in writing and signed by all of the parties hereto.

21. This Lease shall be binding upon the heirs, executors, administrators and assigns of the respective parties hereto.

22. Until further notice of change of address, any notice in writing given under this Agreement shall be sufficient if sent by mail, postage prepaid and addressed as follows:

(a) Lessor: Chickasaw Basin Authority
c/o Shelby County Government
Engineering Department
160 North Main Street
Suite 350
Memphis, Tennessee 38103

(b) Lessee: Sneed Farms, Inc.
3757 Wilkinsville Road
Millington, TN 38053

23. It is specifically agreed between the parties that this Lease and the enforcement of any of the provisions thereof shall be construed and enforced in accordance with the laws of the State of Tennessee.

24. Lessee acknowledges that no warranties of any sort are made by the Lessor as to the condition of the leased premises or its suitability for agriculture.

25. Lessee acknowledges that the leased property demised herein is property which will be publicly bid by Lessors on a five (5) year basis with an option to extend for five (5) years at the Lessors' request. In the event Lessee is not the successful bidder when the subject property is rebid in 2013 or earlier if Lessee is not given the option to extend. Lessee agrees to relinquish possession of the leased premises to the successful bidder as finally approved by the Lessors in 2013, as soon as Lessee has removed its last crop, or by December 31, 2013, whichever is later.

26. Lessee acknowledges that the total area of the leased premises includes wooded areas, ditches, gullies and untillable land and further acknowledges that no warranties of any sort are made by the Lessors as to the condition of the leased premises or its suitability for agriculture.

27. The Lessee further acknowledges that the leased premises was acquired by the Lessors with regard to flood control and that portions of the leased premises may be subject to flooding over which the Lessors have no control. The Lessee acknowledges that the Lessors have made no warranty of any kind as to the extent of land or any portion of the leased premises which may be flooded from time to time.

28. It shall be the sole responsibility of Lessee to decide what open land within the leased premises is to be used for cropland, including hay. Any open, accessible land within the leased premises not used for crops or hay will be mowed or "bushhogged" as often as needed during the Lease term to control weeds and woody growth.

29. Lessee shall, as a condition of this Lease, farm the leased premises using a soil conservation land use plan developed jointly between the U.S.D.A. Natural Resources Conservation Service (NRCS) and the Lessee. The plan and farming practices followed will be those in the farm plan developed above, using NRCS Best Farm Practices required for the land classification of the land being farmed. Soil conservation practices recommended by the Natural Resources Conservation Service, including silt or debris basins, grass waterways, contour rows and minimum tillage will be installed by the Lessee at his cost. Any federal cost share which may be paid to install the practices, which the Lessee is required by its conservation plan to install and that meet NRCS specification, will be paid to the Lessee to aid in installing the conservation practices. The Lessee will maintain the conservation practices to prevent failure for the duration of the Lease.

30. Lessor may cancel the Lease at any time upon thirty (30) days written notice before the end of a current crop year. The Lessee will be reimbursed for his cost for capital outlay directly related to the crop production for that year and for cost of installation of conservation practices on a prorated basis for the remainder of the Lease.

31. Lessor or its agents will in no way be responsible for accidents or injuries which might occur on the leased premises

including but not limited to those which occur to Lessee or Lessee's employees.

32. Lessor will not be responsible or held liable for losses suffered or incurred by the Lessee on the leased premises due to climatic conditions or environmental incidents. These conditions include, but are not limited to, floods, droughts, accidents, fire, acts of God or any other losses.

33. Lessor is in no way responsible for equipment or material used by or for the Lessee.

IN WITNESS WHEREOF, the parties have duly executed this Agreement the day and year first above written.

LESSOR:

SHELBY COUNTY GOVERNMENT

APPROVED AS TO FORM

A C Wharton, Jr., Mayor

Contract Administrator/
Assistant County Attorney

CHICKASAW BASIN AUTHORITY

BY: _____
Charles R. Perkins

TITLE: Chairman

LESSEE:

SNEED FARMS, INC.

BY: *Jerry Andrew Sneed*

TITLE: President

ACKNOWLEDGMENT

STATE OF TENNESSEE
COUNTY OF SHELBY

Before me, the undersigned Notary Public, in and for the State and County aforesaid, personally appeared TERRY ANDREW SNEED, with whom I am personally acquainted or proved to me on the basis of satisfactory evidence, and who, upon oath, acknowledged himself/herself to be president or other officer authorized by appropriate Corporate action and/or Resolution to execute the preceding instrument of the SNEED FARMS, INC., the within named bargainer, a corporation, and that he as such PRESIDENT, executed the foregoing instrument for the purpose therein contained, by signing the name of the corporation by himself/herself as PRESIDENT.

WITNESS my hand and official seal at office this 16th day of January, 2009.


Notary Public


My Commission Expires: 4-26-2011

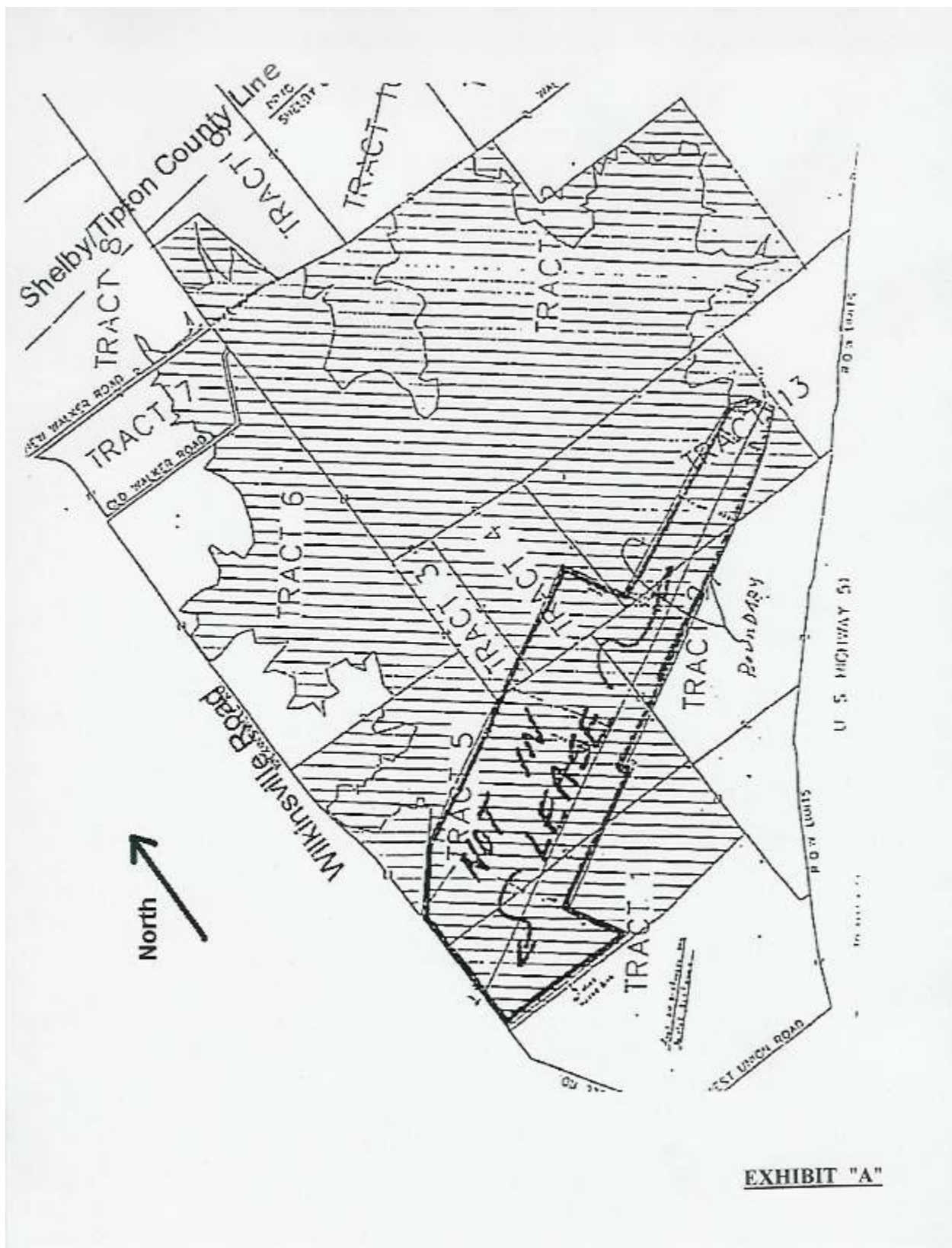


EXHIBIT "A"

SUMMARY SHEET

I. Description of Item

The Chickasaw Basin Authority owns certain real property known as Dam #5 (approximately 910 acres in size) located on the east side of Wilkinsville Road, south of Walker Road, within the City of Millington. The Chickasaw Basin Authority has historically leased 710 acres of the same for agricultural and pasturage operations to generate revenues to offset its ongoing operational expenses. The last lease has now expired and the Chickasaw Basin Authority desires to release the 710 acres. In accordance with County policy, the availability of said 710 acres of land for lease was publicly advertised, soliciting sealed bids to lease the same but only one sealed lease bid was received and opened, calling for an initial term of five (5) years, with the option to extend the initial term for one (1) renewal term of five (5) years, under the terms and conditions stated in the attached Agricultural Lease Agreement. This bid was from Sneed Farms, Inc. offering to lease this property for an annual rental in the amount of \$ 75,000.00. Sneed Farms, Inc. was the last entity to lease this property and has proven to be a very good tenant. Based on the above, it is hereby recommended by the Administration that this lease be approved.

II. Source and Amount of Funding

No county funds required.

III. Contract Items

Agricultural Lease Agreement

IV. Additional Information Relevant to Approval of this Item

Chickasaw Basin Authority Property
Dam #5

